

**Planning Commission
Staff Report
July 5, 2007**



Case:	8571W, Change in zoning from R-1 single-family residential to EZ-1 enterprise zone on property located at 5808 Johnsontown Road (Tax Block 1047, Lot Number 925), containing 23.7 acres and being in Louisville Metro.
Project Name:	Verus Distribution Center
Owner(s):	Walter V. and Rita Mahoney
Applicant:	Chris Thieneman, LLC
Representative:	Paul Whitty, Greenebaum Doll & McDonald
Jurisdiction:	Louisville Metro
Council District:	14 – Robert Henderson
Case Manager:	Kristen Millwood, Planner II

Request

Approval of a change in zoning from R-1 to EZ-1 and approval of a detailed district development plan and waiver.

Staff Recommendation

Staff recommends approval of the zoning change and detailed development plan on condition that the remaining technical review item is corrected prior to a building permit being requested.

Staff further recommends approval of the waiver on condition that that enhanced landscaping is added everywhere the 50-foot buffer is not met.

Case Summary / Background

Summary

The applicant proposes to change the zoning to allow a 378,000 square-foot building to house a regional distribution center and warehouse. It is proposed to include 18,900 square feet of office space and 359,100 square feet of warehouse space. The warehouse portion is proposed to have approximately 210 employees. Right-of-way is proposed to be dedicated along Johnsontown Road. A monument-style sign is proposed. Dumpsters are to be internal.

Transportation added the following notes to the plan with the applicant's agreement:

- -There shall be no direct access to Johnsontown Road until roadway improvements are complete by Metro Public Works to provide a three-lane section along the property frontage.
- -The developer shall contribute \$12,600 for Metro road improvements.

These notes have also been made binding elements.

Waivers

The applicant requests a waiver of LDC Chapter 5.5.4.B.1 to allow parking and maneuvering to encroach into the 50-foot landscape buffer area on all property lines adjacent to the R-1 zoned property and to waive the associated three-foot berm and six-foot screen. Staff generally does not recommend approval of waivers of this nature when a re-zoning on a vacant parcel of land is sought, especially when that land is adjacent to residential zoning. There is little to no likelihood however, that the R-1 zoned land surrounding this property will ever be developed as it is in the floodplain, is protected by the Community Improvement District and is the responsibility of the Metropolitan Sewer District.

Waiver

Location	Requirement	Request	Waiver
East & west sides of the site where the 50-foot buffer is not met adjacent to R-1 zoned property	50-foot LBA	Varies	From 0' to 50' of the required LBA where adjacent to R-1 zoned property

Site Context

This site is located west of Dixie Highway and east of the Ohio River. It is accessed off of Johnsontown Road and surrounded by land in the floodplain owned by the Community Improvement District. This land was put into the R-1 zone class in the 1980s to provide for erosion control, water retention and flood protection.

Land Use / Zoning District / Form District

Land Use		Zoning Form District	
Subject			
Existing	Vacant	R-1	Suburban Workplace
Proposed	Office/warehouse & distribution	EZ-1	Suburban Workplace
Surrounding			
North	Industrial office/warehouse & vacant (Riverport)	EZ-1	Suburban Workplace
South	Vacant (Community Improvement District owned)	R-1	Neighborhood
East	Vacant (Community Improvement District owned)	R-1	Neighborhood
West	Vacant (Community Improvement District owned)	R-1	Neighborhood

Background

There have been no previous zoning actions on this site.

Project History

Project History	Date
Pre-app review	1/24/07
Project submittal	3/19/07
Revision submittal #1	4/16/07
Revision submittal #2	5/3/07
Revision submittal #3	6/21/07
Site Inspection Cmte.	5/18/07
LD&T review	5/24/07
Planning Commission	7/5/07

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Site Inspection Committee Comments

1. Car pool spaces already, check out TARC. (see Staff Findings)
2. Check out sidewalks.
3. Surrounded by County property, compatible with Riverport.
4. Right Form District.
5. How much is in flood plain? How does this affect plan?
6. Check use of connecting land owned by Metro as floodplain protection. (see Waiver and Site Context sections)
7. Request appears reasonable. Is cemetery on property? (see Staff Findings) - [No.]

Staff Findings

Relationship to the Comprehensive Plan – Cornerstone 2020 Plan Elements:

Community Form/Land Use

1.B.10 Suburban Workplace Form District

This site is located in the Suburban Workplace Form District. This form district is characterized by predominantly industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or cluster of uses within a master-planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

This form district is designed to reserve land for large-scale industrial and employment uses in suburban locations. District standards are designed to ensure compatibility with adjacent form districts, to buffer heavy industrial uses from potentially incompatible uses, to ensure adequate access for employees, freight, and products, and to provide services and amenities for employees, and to improve transit service.

The subject property is located across the street from an existing industrial development that takes advantage of the nearby Ohio River. The proposal is in keeping with the character of the area to the north (Riverport). It is surrounded by land that is in the floodplain that has been protected for a number of years. The land surrounding this parcel is vacant and most likely will remain so as it is mainly undesirable for development.

This parcel alone is in the Suburban Workplace Form District on the south side of Johnstown Road. It is surrounded by land in the Neighborhood Form District. The proposed zone and use are appropriate for this the Suburban Workplace Form District. It appears as if this parcel is almost a continuation the SWFD across the street.

3.1 Compatibility, 3.5 Odor & Air Quality Emissions, 3.6 Traffic, 3.7 Noise, 3.8 Lighting, 3.9 Visual Impacts, 3.17 Location of Industries, 3.22 Buffers, 3.24 Minimize Impacts of Parking, Loading & Delivery

The development should be compatible with the scale and site design of nearby existing development and with the pattern of development within the form district. Noxious odors should be avoided; traffic, noise, lighting and visual intrusion impacts on existing communities should be mitigated. Parking, loading and delivery should be adequate and convenient for motorists and not negatively impact residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Encourage the placement of parking lots and garage doors behind or beside buildings rather than facing the street.

Industries should be encouraged to locate in workplace form districts rather than isolated industrial sites.

A letter of support was received from Larry McFall, President of nearby Riverport. Elevations meet code and are typical of the Riverport area.

The applicant revised the elevations to provide trees along the facades to help meet design standards. Specifically, trees were added along the front of the building every 80 feet in the foundation planting area abutting the building. The proposed trees are evergreen to provide a year-round softening effect and visual interest. The evergreens will be either Foster Hollies, Virginia Eastern Red Cedars or another large, columnar evergreen. A landscape plan will still need to be approved by staff.

Lighting will be installed primarily for security purposes and will be directed down and away from residential properties.

4.1 Design of Open Space, 4.2 Conservation of Natural Resources, 4.3 Outdoor Recreation, 5.1 Natural Features, 5.2 Historic Resources, 13.5 Tree Canopy

Open space should be designed to meet outdoor recreation, natural resource protection, aesthetic, cultural and educational or public health and safety needs. Natural resource systems should be conserved and protected within a network of greenways that shape the pattern of development by providing open space as a component of new development. Open space that is created by new development should help meet the recreation needs of the community.

Development is encouraged to respect the natural features of the site. Development should preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, bulk, scale, architecture and placement when located within the impact area of such resources. Require tree preservation best management practices during land development and construction activities. Provide standards to ensure creation and/or preservation of tree canopy as a valuable community resource.

No trees are proposed to be preserved. The applicant is strongly encouraged to preserve a percentage of the trees on site, rather than provide mitigation only.

The Mill Creek Cemetery is located west of the proposed development on a separate parcel and the existing outbuildings are not considered historic. Therefore, there will be no effect on any known historic or cultural resources.

Marketplace

6.1 Preserve Workplaces, 6.4 Location of Industries, 6.7 Industry near Airport & Ohio River, 6.8 Location of Industries near Transportation Facilities

Land uses in workplace districts should be limited to only those necessary to meet the needs of the industrial subdivision or workplace district and their employees. Industries should be encouraged to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs. Industrial sites near airports and the Ohio River should be used only for those industries whose transportation and production needs require such a location.

The subject site is across the street from Riverport, an existing industrial subdivision located near the Ohio River and in a workplace form district. It is expected to employ over 200 persons.

Mobility/Transportation

7.1 Impact of Developments, 7.2 Impact Mitigation

Development should be evaluated for impact on the street and roadway system and air quality. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria. Development should provide street improvements and/or transit solutions to mitigate impacts of development and re-development.

The developer is being asked to dedicate 60 feet of right-of-way from one portion of Johnsontown Road and 40 feet from another part of Johnsontown Road. The applicant stated that truck traffic will use Greenbelt Highway and the Gene Snyder Freeway. Improvements to the curve on Johnsontown Road to the north of the site are proposed in the form of additional pavement width (12 feet from centerline) and six-foot to eight-foot wide shoulders along the site frontage as well as dedication of additional right-of-way. Sidewalks are proposed for the entire length of the site adjacent to Johnsontown Road.

There are no specific transit requirements for this request.

Livability/Environment

Development should mitigate negative impacts to the watershed and its capacity to transport stormwater. Development should also mitigate negative impacts to the integrity of the regulatory floodplain, encouraging patterns that minimize disturbance. Development should consider the impact of traffic on air quality standards and mitigate sources of pollution through measures that reduce traffic and utilize planning and development review strategies. Development should minimize impervious surface area and take advantage of soil saturation capacities.

10.1 Impact to Watershed, 10.2 Impact to Regulatory Floodplain, 10.3 Impervious Surface, 10.11 Stormwater Runoff

See agency comments for the proposal's impact on the watershed, floodplain and related issues.

The tract does not contain any hydric soils, but the Weinbach unit that comprises over 40% of the area is seasonally wet. A comprehensive sediment and erosion control plan should be developed and implemented as part of the transformation of this tract. The plan should give emphasis to preventing the movement of soil sediments from the construction site to drainageways such as Black Pond Creek. Some of the soils of this area have the capacity to help address stormwater runoff, and this may be an opportunity to look at the use of pervious pavement, artificial wetlands, level spreaders, rooftop gardens and other measures to reduce stormwater runoff (Natural Resources Conservation Service).

A small portion of this site is in the 100-year floodplain. The developer is urged to consider using measures on-site to help address potential stormwater management concerns (Jefferson County Soil & Water Conservation District).

This development would need Department of Water and Corps of Engineers approvals.

Sanitary sewer service is available on site. Water service will be provided by the Louisville Water Company. The applicant will install any necessary water system improvements to the site.

12.1 Air Quality – Traffic, 12.2 Clean Air Standards

Air Pollution Control District and Transportation preliminary approvals have been granted.

The applicant submitted a Trip Generation and Distribution study along with a letter that stated that Transportation was satisfied with the analysis and that no further studies were needed.

Relationship to Neighborhood, Small Area, Corridor or Other Plans

The Ohio River Corridor Master Plan – this proposal is in the Southwest Sub-Area of the Ohio River Corridor. The plan makes no specific recommendations other than to continue the development of Riverport industrial park and to merge private development with public access to the river. The latter is not relevant as this development is on the far side of Johnsonstown Road from the river.

Standard of Review

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**

3. There have been major changes of an economic, physical, or social nature within the area involved, which were not anticipated in Cornerstone 2020, which have substantially altered the basic character of the area.

Criteria for approving variance:

1. The proposed variance will not adversely affect the public health, safety or welfare; **and**
2. The proposed variance will not alter the essential character of the general vicinity; **and**
3. The proposed variance will not cause a hazard or a nuisance to the public; **and**
4. The proposed variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

In making these findings, you must consider whether:

- (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone;
- (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; **and**
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

Criteria for approving waiver:

1. The waiver will not adversely affect adjacent property owners; **and**
2. The waiver will not violate specific guidelines of Cornerstone 2020; **and**
3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; **and**
4. Either:
 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); **or**
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Technical Review

Provide figures for ILA required and provided in percentages.

Standard Of Review

Waiver of Chapter 5, Part 5.4.B.1

The applicant requests a waiver of Chapter 5, Part 5.4.B.1 to allow parking and maneuvering to encroach into the 50-foot required landscape buffer area adjacent to R-1 zoned land as well and to eliminate the required six-foot berm and three-foot screen.

Criteria for approving waiver:

1. The waiver will not adversely affect adjacent property owners; and

Staff: The requested waivers will not adversely affect adjacent property owners, as the adjacent property is wooded and vacant and is zoned R-1 in order to protect it from development as it is in the floodplain. It was held by the Community Improvement District for flood control purposes and is now owned by Louisville Metro.

2. The waiver will not violate specific guidelines of Cornerstone 2020; and

Staff: The waiver will not violate guidelines of the Cornerstone 2020 plan as Guideline 3 (Compatibility) is intended to ensure compatibility of land uses and mitigate nuisances and as demonstrated above, there are no adjacent neighbors. The applicant has supplied elevations for the building that meet design standards.

3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

Staff: The extent of the waiver is the minimum necessary to afford relief to the applicant as the applicant is providing the full or partial buffer in places and has been asked to enhance landscaping where the full buffer is not met.

4. Either:

The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or

Staff: The applicant stated in the waiver justification statement that they can incorporate other design measures to compensate for non-compliance by adding enhanced landscaping at the northeast corner of the site. Staff suggests that this is made a condition of approval and that enhanced landscaping is added everywhere the 50-foot buffer is not met.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Attached Documents / Information

LOJIC - Standard Information Map - Microsoft Internet Explorer provided by Louisville Metro

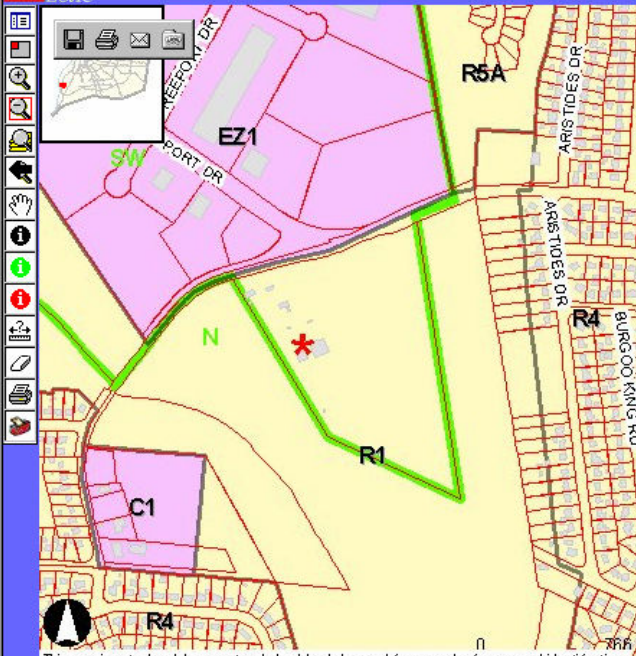
Standard Information Map

SEARCH LAYERS HELP COMMENT

Search by Parcel ID
(ie. Block 014J Lot 0094 Sublot 0000)
Block Lot Sublot

Search by Street Address
(ie. 700 W Liberty St)

Search by Street Intersection
Street (ie. W Liberty St) 1:
Street (ie. S 7th St) 2:



Zoom Out Scale: 1" = ft Switch Map: Standard Information Map

Map: 1171779.38, 229808.94 -- Image: 255, 222 -- ScaleFactor: 7.980997624703088

Local intranet



Notification

The following forms of notification were provided pertaining to this proposal:

Notification

Date	Description	Recipients
6/4/07	Notice of Planning Commission hearing	Adjoining property owners and neighborhood group listing.

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

Proposed Binding Elements – Docket #8571W (unique to this case)

1. There shall be no direct access to Johnsontown Road until roadway improvements are complete by Metro Public Works to provide a three-lane section along the property frontage.
2. The developer shall contribute \$12,600 for Metro road improvements.

Proposed Standard Binding Elements - Docket #8571W

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 378,000 square feet of gross floor area.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded creating the lot lines as shown/dedicating right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 5, 2007 Planning Commission meeting.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

The above binding elements of the district development plan are agreed to by the property owner _____, 2006.

OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

Name

Title

Date